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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,899	09/19/2001	Dillis V. Allen		1616

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EXAMINER

BLAU, STEPHEN LUTHER

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 03/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/955,899	ALLEN, DILLIS V.	
	Examiner	Art Unit	
	Stephen L. Blau	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 21 January 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-4 and 6-12 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4 and 6-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 September 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on 21 January 2003 is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \*    c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

<ol style="list-style-type: none"> <li>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.</li> </ol>	<ol style="list-style-type: none"> <li>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____.</li> <li>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6)<input type="checkbox"/> Other: _____.</li> </ol>
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## DETAILED ACTION

### *Priority*

1. The comments are agreed with and this case is a continuation-in-part of the prior application (09/614,107).

### *Drawings*

2. The changes to figures 6-8 are agreed with.
3. The drawings are objected to because:
  - a. There is no line 7-7 in figure 1 as stated on page 16 line 23.
  - b. Figure 13 shows line 111-111 instead of line 11-11 as stated on page 17 line 21.
  - c. Figure 20 shows line 113-113 instead of line 13-13 as stated on page 17 line 25.

✓ drawing

✓ spec

✓ spec

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "60" has been used to designate both perimeter (Page 21 line 24, Figure 3) and a flange portion (Page 22 line 9, Figure 6). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. ✓

***Specification***

5. The disclosure is objected to because of the following informalities: Reference character "60" has been used to designate both perimeter (Page 21 line 24, Figure 3) and a flange portion (Page 22 line 9, Figure 6). drawing ✓

Appropriate correction is required.

6. The abstract of the disclosure is objected to because it is not one paragraph. ✓  
Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-4 and 6-12 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The statement "engaging/engagement... the rear surface" in claims 1-3, 8-10 and 12 is indefinite since there are two different described engagement conditions in the specification. One is where in a static condition the unit cellular structure is positioned in continuous engagement with the rear surface of the wall (Page 11 Lines 4-6) or the other when the cellular network is slightly spaced from the rear surface of the face wall but will engage if the face wall deflects enough (Page 11 Lns. 18-24). It is uncertain what condition is being discussed in these claims (i.e. static condition, dynamic condition (during impact)). ✓

9. The changes with respect "ribs" and "bars" in claims 6, 7, 11 and 12 are agreed with and the rejections under 35 U.S.C. 112, second paragraph, are removed.

***Double Patenting***

10. The terminal disclaimer is agreed with and entered. As such the obviousness-type double patenting rejection for claims 1-7 with respect to copending application 09/614,107 have been removed.

11. The obviousness-type double patenting rejection for claims 1-12 with respect to patent 4,930,781 is not agreed with and has been removed.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-3 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Mack.

Mack discloses a perimeter wall in form of the shell of the head (20) and the frame (28) surrounding a face wall (26), a unit cellular structure wall (35) formed separately from a face wall positioned immediately behind and either engaging or closely spaced from a rear surface of a face wall (Fig. 3), unit cellular structure wall being generally planar (Figs. 2-3) and being attached to and supported solely by the perimeter wall (Fig. 3, Ref. Nos. 40, 46), unit cellular structure wall including a plurality

of cells surrounded by other cells with each cell including a central opening extending completely through the unit cellular structure wall in the form of strings (38) forming holes (35), unit cellular structure wall has a forward surface in engagement with the rear surface of a face wall (Ref. No. 42, Col. 6, Lns. 1-7, Fig. 3), and unit cellular structure wall has a forward surface spaced rearwardly from the rear surface wall less than .1 inches in the form of the strings (35) going form a contact to non-contact (Fig. 3).

14. Claims 1-2, 6, 8-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Sasamoto.

Sasamoto discloses a perimeter wall (Fig. 11, Ref. Nos. 33, 27, 23) surrounding a face wall (31), a unit cellular structure wall in the form of a grid structure (Fig. 10, Col. 1, Lns. 50-54) formed separately from a face wall (Fig. 10) positioned immediately behind and either engaging or closely spaced from a rear surface of a face wall (Fig. 11), unit cellular structure wall being generally planar (Figs. 10-11) and being attached to and supported solely by the perimeter wall (Fig. 11), unit cellular structure wall including a plurality of cells surrounded by other cells with each cell including a central opening extending completely through the unit cellular structure wall in the form of a grid structure forming holes (29, Fig. 11), unit cellular structure wall has a forward surface in engagement with the rear surface of a face wall (Fig. 11) and bars in the form of a grid structure made of metal surrounding each of the openings (Col. 1, Lns. 43-54, Figs. 10-11)

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mack.

Mack discloses a significant area of a unit cellular structure wall being openings (Figs. 2, 2B, and 4). Mack lacks the openings extending over 60 percent of the area of the unit cellular structure wall. An artisan skilled in the art of using tensioning wire to provide the proper tuning to a face would have selected a suitable amount of wires and area of openings in which the openings extending over 60 percent of the area of the unit cellular structure wall is included. It would have been obvious to include in the head of Mack the amount of wires and openings such that the openings extending over 60 percent of the area of the unit cellular structure wall in order to minimize the amount of material needed to form the unit cellular structure wall.

***Allowable Subject Matter***

17. Claim 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

None of the prior art discloses or renders as obvious bars having a "T" shaped cross section defined by a first bar flange portion and a second bar web portion integral with the first bar flange portion at approximately the center of the first bar flange portion and perpendicular thereto, and the bar portion facing forwardly toward the rear surface of the face wall in addition to the other elements of structure claimed.

18. Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. None of the prior art discloses or renders as obvious bars having a "T" shaped cross section defined by a first bar flange portion and a second bar web portion integral with the first bar flange portion at approximately the center of the first bar flange portion and perpendicular thereto, and the bar portion facing forwardly toward the rear surface of the face wall in addition to the other elements of structure claimed.

***Response to Arguments***

19. Applicant's arguments with respect to claims 1-4 and 6-12 have been considered but are moot in view of the new ground(s) of rejection.

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Conclusion***

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Blau whose telephone number is (703) 308-2712. The examiner is available Monday through Friday from 8 a.m. to 4:30 p.m.. If the examiner is unavailable you can contact his supervisor Paul Sewell whose telephone number is (703) 308-2126. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858.

Slb 3 March 2003



STEPHEN BLAU  
PRIMARY EXAMINER